THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :21790 of 2007

DATED:11-10-2007

BETWEEN:

M.R.Sadasivappa @ M.R.Sivanna & 2 others.

..... PETITIONERS

AND

The District Collector,
Anantapur District & 2 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioners as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the respondents in issuing the proceedings in Rc.No.335/05(B), dated 10-09-2007, proposing to allot the petitioners' land of an extent of AC.3.30 cents in Sy.No.484-1, situated at Srikantapuram, Hindupur, Ananthapur District to the members of the 3rd respondent, as illegal and arbitrary.

3. It is the case of the petitioners that they filed O.S.No.75 of 2005 on the file of the Junior Civil Judge, Hindupur for perpetual injunction restraining the respondents therein, but the injunction application has been erroneously dismissed against which C.M.A.3 of 2006 has been filed on the file of the Additional District Judge, Hindupur, in which an Advocate-Commissioner was appointed, and the said Advocate-Commissioner filed a report stating that the subject-matter of the suit schedule property is Sy.No.484-1 in which the house of the petitioners bearing H.No.5-1-24 situated at Laxmipur, Hindupur was found. It is stated that while the petitioners were in occupation and enjoyment of the said property, the 2nd respondent-Tahsildar, Hindupur vide his proceedings in Rc.No.335/05(B) dated 10-09-2007, submitted proposals for alienation of the land of an extent of Ac.1.48 cents in

Sy.No.484-1, Srikantapuram village in favour of Hindupur Journalists Mutually Aided Co-operative House Building Society stating that the land is free from encroachments and the injunction application filed by the petitioners was dismissed and the civil suit is pending. It is stated that as per the report of the Advocate-Commissioner petitioners are very well in possession.

4. Having regard to the facts and circumstances, I am of the opinion that even if the petitioners are treated as encroachers, without following due procedure under the A.P.Land Encroachment Act, 1905, they shall not be dispossessed.

5. Accordingly, Writ Petition is disposed of directing the respondents not to dispossess the petitioners, if they are in possession as on today, without following due process of law.

There shall be no order as to costs.

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V.ESWARAIAH,J

11th October, 2007.

Note:

Issue operative portion of
the order by wire at party's costs.

B/o

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